

# Notice of Allowability

Application No.

09/748,942

Examiner

KIEU-OANH BUI

Applicant(s)

ELDERING ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 07/23/2007.
2. ☒ The allowed claim(s) is/are 1-11, 15-22, 24-31 and 33-44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

KIEU-OANH BUI  
PRIMARY EXAMINER

## DETAILED ACTION

### *Remark*

1. Claims 12-14, 23, and 32 have been previously cancelled. Claims 1-11, 15-22, 24-31 and 33-44 (with claim 44 is newly added) are pending for reconsideration.

### *Allowable Subject Matter*

2. Claims 1-11, 15-22, 24-31 and 33-44 have been allowed.

### *Reasons for Allowance*

3. The following is an examiner's statement of reasons for allowance:

The closest prior arts of record issued to Hite and Guyot either alone or in a combination fails to teach or suggest the present invention for a subscriber equipment for displaying targeted advertisements to a subscriber in a television network system, the subscriber equipment comprising: a communications interface for receiving at least one queue identifying a sequence of targeted advertisements, wherein the at least one queue is selectively distributed to the subscriber and the targeted advertisements have been previously matched to the subscriber, and wherein at least one of the targeted advertisements is repeatedly placed in the queue according to a controllable predetermined spacing, **the controllable predetermined spacing specifying the number of intervening advertisements between occurrences of the at least one targeted advertisement and wherein the controllable spacing predetermined is specified by an advertiser**; memory for storing the at least one queue; a processor, responsive to the at least one

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queue, configured to repeatedly insert the targeted advertisements into program streams for display to the subscriber in accordance with the sequence, wherein the ending program; and a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit as claimed in claim 1, and similarly described in claims 15, 30, 35 and 37.

The primary examiner agrees with the applicants that that *monitoring the number of ads displayed* within a period (i.e., the frequency of display), has absolutely nothing to do with controllable predetermined spacing between ads themselves. *Monitoring frequency of display* and/or reporting that frequency (e.g., number of ads per day) does not teach or suggest that the frequency is or could be controlled. Moreover, monitoring the frequency of ads does not teach or suggest that a sequence of commercials is arranged in a specific order and placed in a queue. That is, just because Hite's system may monitor frequency of ad display does not mean that Hite teaches *selecting the sequence* of ads themselves. Guyot also does not teach or suggest a system having a communications interface that receives "**at least one queue ... wherein at least one of the targeted advertisements is repeatedly placed in the queue according to a controllable predetermined spacing, the controllable predetermined spacing specifying the number of intervening advertisements between occurrences of the at least one targeted advertisement and wherein the controllable spacing predetermined is specified by an advertiser.**" There is no discussion in Guyot of spacing of advertisements within a queue, nor the ability of an advertiser to select or specify such an interval or spacing.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

**4. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to PTO New Central Fax number:**

**(571) 273-8300, (for Technology Center 2600 only)**

*Hand deliveries must be made to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller, can be reached at (571) 272-7353.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K. Bui', with a long horizontal line extending to the right.

Kieu-Oanh Bui  
Primary Examiner  
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KB

Nov. 8, 2007